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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,059	06/29/2005	Frederic Broyde	60809-5083-US	6070
38426	7590	05/11/2006	EXAMINER	
MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.			CRAWFORD, JASON	
2 PALO ALTO SQUARE			ART UNIT	
3000 EL CAMINO REAL			PAPER NUMBER	
PALO ALTO, CA 94306			2819	

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/541,059	Applicant(s) BROYDE ET AL.	
	Examiner Jason Crawford	Art Unit 2819	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

Statutory Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

1. Claims 1, 8-14 and 16-17 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 2-4, and 6-11 of copending Application

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No. 10/547,083. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim 1 has the same limitation corresponding to Claim 1 of Application 10/547,083.

Claim 8 has the same limitation corresponding to Claim 2 of Application 10/547,083.

Claim 9 has the same limitation corresponding to Claim 3 of Application 10/547,083.

Claim 10 has the same limitation corresponding to Claim 4 of Application 10/547,083.

Claim 11 has the same limitation corresponding to Claim 6 of Application 10/547,083.

Claim 12 have the same limitation corresponding to Claim 7 of Application 10/547,083.

Claim 13 have the same limitation corresponding to Claim 8 of Application 10/547,083.

Claims 14 have the same limitation corresponding to Claim 9 of Application 10/547,083.

Claim 16 has the same limitation corresponding to Claim 10 of Application 10/547,083.

Claim 17 has the same limitation corresponding to Claim 11 of Application 10/547,083.

Non-Statutory Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 2-3, 5 and 20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7-9 and 16 respectively of copending Application No. 10/547,083. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations are included within both of the co-pending applications, which anticipate the limitations of all of the above claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claim 4 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of copending Application No.

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10/547,088. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations are included within both of the co-pending applications, which anticipate the limitations of the above claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 6 and 15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over copending Application No. 10/547,083. Although the conflicting claims are not identical, they are not patentably distinct from each other because the range defined within the Claims ($n \geq 2$) is an overlapping range within a range defined within each of the independent Claims (1 and 11 respectively wherein $n \geq 2$). (See MPEP 2131.04, 2144.05)

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claim 7 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over copending Application No. 10/547,083 in view of case law provided in MPEP 2144.05 for Optimization of Ranges. Regarding Claim 7, it would have been obvious to one of ordinary skill in the art to use the range provided within the limitation of the claim (i.e. 100kHz to 100GHz) because this is the range in which an invention of this type would be operable.

This is a provisional obviousness-type double patenting rejection.

6. Claim 18 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over copending Application No. 10/547,083.

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Although the claims are not identical, they are not patentably distinct from each other because the claim limitations, the items to be interconnected containing a transmitting circuit and/or a receiving circuit intended for interconnections with predetermined interconnections, can be interpreted within the independent claims of each the co-pending applications.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claim 19 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over copending Application No. 10/547,083.

Although the conflicting are not identical, they are not patentably distinct from each other because it would be obvious to one of ordinary skill in the art based on the nature of the claimed invention that the transmission channels of the Applicant's invention would be used to send digital signals.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Crawford whose telephone number is 571-272-6004. The examiner can normally be reached on Monday - Friday 7am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rex Barnie can be reached on 571-272-7492. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC


REXFORD BARNIE
SUPERVISORY PATENT EXAMINER
05/05/06